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14 Attorneys for Plaintiff,  
15 Bart Paschke

16 UNITED STATES DISTRICT COURT  
17 FOR THE DISTRICT OF ARIZONA

18 Bart Paschke,

19 Plaintiff,

20 vs.

21 Midland Credit Management, Inc.,

22 Defendant.  
23  
24  
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26  
27  
28

Case No.:

**COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff, Bart Paschke (hereafter “Plaintiff”), by undersigned counsel, brings  
2 the following complaint against Midland Credit Management Inc. (hereafter  
3 “Defendant”) and alleges as follows:  
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the Fair Debt  
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).  
8

9 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28  
10 U.S.C. § 1331.  
11

12 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where  
13 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or  
14 where Defendant transacts business in this district.  
15

16 **PARTIES**

17 4. Plaintiff is an adult individual residing in Glendale, Arizona, and is a  
18 “person” as defined by 47 U.S.C. § 153(39).  
19

20 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

21 6. Defendant is a business entity located in San Diego, California, and is a  
22 “person” as the term is defined by 47 U.S.C. § 153(39).  
23

24 7. Defendant uses instrumentalities of interstate commerce or the mails in a  
25 business the principle purpose of which is the collection of debts and/or regularly  
26 collects or attempts to collect debts owed or asserted to be owed to another, and is a  
27 “debt collector” as defined by 15 U.S.C. § 1692a(6).  
28

**ALLEGATIONS APPLICABLE TO ALL COUNTS**

8. Plaintiff is a natural person allegedly obligated to pay a debt asserted to be owed to a creditor other than Defendant.

9. Plaintiff's alleged obligation arises from a transaction in which property, services or money was acquired on credit primarily for personal, family or household purposes, is a "debt" as defined by 15 U.S.C. § 1692a(5).

10. At all times mentioned herein where Defendant communicated with any person via telephone, such communication was done via Defendant's agent, representative or employee.

11. In or around February of 2014, Defendant began calling Plaintiff in an attempt to collect a debt.

12. Defendant failed to identify itself in its conversations with Plaintiff.

13. Defendant failed to send Plaintiff written notice of the debt within five days of initiating communication with Plaintiff.

14. In February of 2014, Plaintiff filed for bankruptcy protection and notified the original creditor.

15. In March of 2014, Plaintiff notified Defendant via US Mail that he had retained an attorney and provided Defendant with his attorney's information.

16. Defendant continued to place calls directly to Plaintiff after receiving notice that Plaintiff had retained an attorney.

17. Defendant also placed calls to Plaintiff's work number in an attempt to collect a debt.

18. Plaintiff informed Defendant that he could not take Defendant's calls at work and requested that further calls to his work number cease.

19. Despite this request and knowing that Plaintiff's employer did not allow Plaintiff to take Defendant's calls at work, Defendant continued to call Plaintiff's at his place of employment.

**COUNT I**

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT, 15**  
**U.S.C. § 1692, et seq.**

20. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

21. The FDCPA was passed in order to protect consumers from the use of abusive, deceptive and unfair debt collection practices and in order to eliminate such practices.

22. Defendant attempted to collect a debt from Plaintiff and engaged in “communications” as defined by 15 U.S.C. § 1692a(2).

23. Defendant communicated with Plaintiff at a time or place known to be inconvenient to the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).

24. Defendant communicated with Plaintiff knowing that Plaintiff was represented by an attorney, in violation of 15 U.S.C. § 1692c(a)(2).

25. Defendant communicated with Plaintiff at his place of employment knowing that the employer prohibits Plaintiff from receiving such communication, in violation of 15 U.S.C. § 1692c(a)(3).

26. Defendant engaged in conduct, the natural consequence of which was to harass, oppress, or abuse Plaintiff, in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

27. Defendant caused Plaintiff's phone to ring or engaged Plaintiff in telephone conversations repeatedly or continuously, with the intent to annoy, abuse and harass Plaintiff, in violation of 15 U.S.C. § 1692d(5).

28. Defendant placed telephone calls to Plaintiff without disclosing the caller's identity, in violation of 15 U.S.C. § 1692d(6).

29. Defendant failed to send Plaintiff written notice regarding the alleged debt within five (5) days after its initial communication with Plaintiff, in violation of 15 U.S.C. § 1692g(a).

30. The foregoing acts and/or omissions of Defendant constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

31. Plaintiff has been harmed and is entitled to damages as a result of Defendant's violations.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- 1 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);  
2  
3 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);  
4  
5 C. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C.  
6 § 1692k(a)(3) and Cal. Civ. Code § 1788.30(c);  
7  
8 D. Punitive damages; and  
9  
10 E. Such other and further relief as may be just and proper.

11  
12  
13 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

14 DATED: February 27, 2015

TRINETTE G. KENT

15 By: /s/ Trinette G. Kent  
16 Trinette G. Kent, Esq.  
17 Lemberg Law, LLC  
18 Attorney for Plaintiff, Bart Paschke  
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